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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-804*

13 **VICTORIA JEAN LOVIO**

A C C U S A T I O N

14 505 East Lake Street
Mt. Shasta, CA 96067

15 Registered Nurse License No. 806459

16 Respondent.

17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about September 16, 2011, the Board issued Registered Nurse License Number
22 806459 to Victoria Jean Lovio ("Respondent") by method of endorsement from the State of
23 Oregon. The license was in full force and effect at all times relevant to the charges brought
24 herein and will expire on April 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
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1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
6 may renew an expired license at any time within eight years after the expiration.

7 **STATUTORY PROVISIONS**

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed nurse or
10 deny an application for a certificate or license for the following:

11 (a) Unprofessional conduct...

12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by
14 another state or territory of the United States, by any other government agency, or
by another California health care professional licensing board. A certified copy of
the decision or judgment shall be conclusive evidence of that action.

15 **COST RECOVERY**

16 6. Code section 125.3 provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case. If a case settles, recovery of investigation and enforcement costs may be
20 included in a stipulated settlement or surrender of license.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Out-of-State Discipline)**

23 7. Respondent is subject to discipline under Code section 2761, subdivision (a)(4), in
24 that effective November 16, 2011, Respondent was disciplined by the Oregon Board of Nursing
25 ("Oregon Board") pursuant to the Final Order issued in the case titled *In the Matter of Victoria*
26 *Jean Lovio, RN, License No. 200943303RN, Reference No. 12-00733*. The Oregon Board
27 accepted Respondent's voluntary surrender of her Registered Nurse License Number 200943303
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1 as set forth in the Stipulation for Voluntary Surrender signed by Respondent. A copy is attached
2 hereto, marked **Exhibit A**, and incorporated by reference.

3 a. The underlying circumstances for the stipulation are: On or about October 4, 2011,
4 the Oregon Board received a report that Respondent allegedly removed narcotics and medical
5 supplies from Respondent's place of employment. Respondent agreed to remove herself from the
6 practice of nursing by signing an Interim Order by Consent. On or about October 14, 2011,
7 Respondent notified the Oregon Board of her wish to voluntarily surrender her license.

8 **FACTORS IN AGGRAVATION**

9 8. In order to determine the degree of penalty to be imposed, if any, complainant alleges
10 the following as factors in aggravation:

11 a. On or about February 23, 2009, the Board filed Statement of Issues Number
12 2009-174 against Respondent denying her application for licensure based on the July 7, 2008,
13 conviction on her plea of nolo contendere to violating Vehicle Code section 23103 (reckless
14 driving on a highway) in the case titled *People v. Victoria Jean Lovio*, Butte County Superior
15 Court Case No. SCR64745. The original charges against her were for violating Vehicle Code
16 sections 23152(a) (driving under the influence of alcohol), and 23152(b) (driving while having a
17 0.08% or higher blood alcohol level). Respondent initially appealed the Board's denial of her
18 application and requested a hearing and, later, withdrew her request. The Board entered a Default
19 Decision and Order against Respondent effective September 17, 2009, as set forth in **Exhibit B**,
20 attached hereto and incorporated by reference.

21 **PRAYER**

22 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 806459, issued to
25 Victoria Jean Lovio;

26 2. Ordering Victoria Jean Lovio to pay the Board of Registered Nursing the reasonable
27 costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

28 ///

3. Taking such other and further action as deemed necessary and proper.

DATED:

March 19, 2013



for

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

Oregon Board of Nursing

Final Order – Case No. 12-00733

BEFORE THE OREGON
STATE BOARD OF NURSING

In the Matter of

Victoria J. Lovio, RN

FINAL ORDER

License No. 200943303RN

Reference No. 12-00733

The Oregon State Board of Nursing (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including Registered Nurses, in the State of Oregon. Victoria J. Lovio (Licensee) is a Registered Nurse in the State of Oregon.

This Matter was considered by the Board on November 16, 2011. Licensee did not appear personally. The issue for the Board was whether to approve the Stipulation for Voluntary Surrender signed by Licensee on October 26, 2011 and so dispense with this Matter pursuant to ORS 183.417(3).

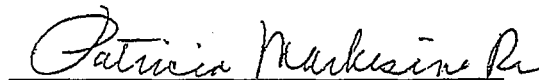
Upon review of the Stipulation and the agency file in this Matter, the Board finds that reasonable factual and legal grounds exist to support approval of the Stipulation. It is hereby

ORDERED that the Stipulation signed by Licensee on October 26, 2011 be approved and by this reference incorporated herein, and it is further

ORDERED that the Board adopt the Stipulation and that the Registered Nurse License of Victoria J. Lovio be surrendered as set forth in the Stipulation.

DATED this 16 day of November, 2011

FOR THE BOARD OF NURSING OF THE STATE OF OREGON



Patricia Markesino, RN
Board President

BEFORE THE OREGON
STATE BOARD OF NURSING

In the Matter of

Victoria Jean Lovio, RN

License No. 200943303RN

) STIPULATION FOR

) VOLUNTARY SURRENDER OR

) REGISTERED NURSE LICENSE

) Reference No. 12-00733

The Oregon State Board of Nursing (Board) is the state agency responsible for the licensure and regulation of registered nurses in Oregon. Victoria Jean Lovio (Licensee) has been a registered nurse in Oregon since December 18, 2009.

On October 4, 2011, Licensee came to the attention of the Board when a report was made alleging that she had removed narcotics and medical supplies from her place of employment.

On October 4, 2011, Licensee agreed to remove herself from the practice of nursing until further ordered by the Board, by signing an Interim Order by Consent.

In a telephone conversation with Board staff on October 14, 2011, Licensee stated her wishes to voluntarily surrender her license.

WHEREAS by the above actions, Victoria Jean Lovio is subject to disciplinary action pursuant to violations of ORS 678.111(1)(f); and OAR 851-045-0070(2)(f) which provide as follows:

ORS 678.111

(1) Issuance of a license to practice nursing, whether by examination or by indorsement, of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the Oregon State Board of Nursing and subject to such conditions as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following causes:

(f) Conduct derogatory to the standards of nursing.

OAR 851-045-0070

(2) Conduct related to other federal or state statute/rule violations:

(f) Unauthorized removal or attempted removal of narcotics, other drugs, supplies, property, or money from clients, the work place, or any person.

Licensee wishes to cooperate with the Board in resolving the present disciplinary matter and is willing to Voluntarily Surrender her Oregon Registered Nurse license. Therefore, the following will be proposed to the Oregon State Board of Nursing and is agreed to by Licensee:

That the Voluntary Surrender of the Registered Nurse license of Victoria Jean Lovio be accepted. Ms. Lovio may apply for reinstatement of her Oregon Registered Nurse license no sooner than three (3) years following the date of the Final Order the Board issues implementing this Stipulation. If Ms. Lovio wishes to apply for reinstatement of her Registered Nurse license she may appear before the Board to make such a request. Should the Board reinstate Ms. Lovio's Registered Nurse license, Ms. Lovio may be subject to whatever terms and conditions the Board might impose.

Licensee understands that this Stipulation will be submitted to the Board of Nursing for their approval and is subject to the Board's confirmation.


Licensee understands that by signing this Stipulated Agreement for voluntary surrender she waives the right to an administrative hearing under ORS 183.310 to 183.550.

Licensee understands that this Stipulation for Voluntary Surrender will become a public record at such time as the Board issues a Final Order implementing it.

Licensee agrees that she will not practice as a Registered Nurse in Oregon from the date of signature on this Stipulation.

Licensee, by her signature below, attests that she has read this Stipulation for Voluntary Surrender, understands the Stipulation completely, and declares that no promises, representations, duress, or coercion have been used to induce her to sign this Stipulation.

Dated this 26 day of October, 2011.


Victoria Lovio, RN

FOR THE OREGON STATE BOARD OF NURSING

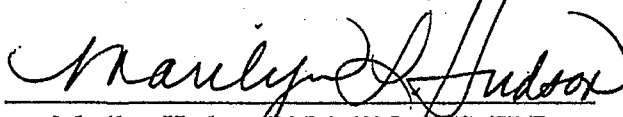
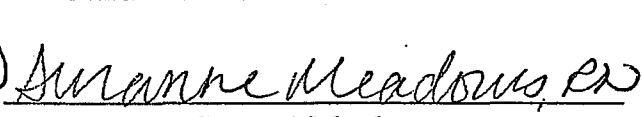
	
Marilyn Hudson RN, MSN, CNS, FRE	Suzanne Meadows
Investigation Manager	Investigator
Investigation Department	Investigation Department

EXHIBIT B

Board of Registered Nursing

Default Order and Decision – Case No. 2009-174

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER, State Bar No. 117576
Deputy Attorney General
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5 Sacramento, CA 94244-2550
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6 Facsimile: (916) 327-8643

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2009-174

13 **VICTORIA JEAN LOVIO**
505 East Lake Street
14 Mt. Shasta, California 96067

DEFAULT DECISION
AND ORDER

[Gov. Code, § 11520]

15 Respondent.

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17 **FINDINGS OF FACT**

18 1. On or about February 23, 2009, Complainant Ruth Ann Terry, M.P.H.,
19 R.N., in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs, filed Statement of Issues No. 2009-174 against Victoria Jean
21 Lovio (Respondent) before the Board of Registered Nursing.

22 2. On or about June 3, 2008, Respondent filed an application dated May 28,
23 2008, with the Board of Registered Nursing to obtain a Registered Nurse License.

24 3. On or about July 17, 2008, the Board issued a letter denying Respondent's
25 application for a Registered Nurse License. On or about July 22, 2008, Respondent appealed the
26 Board's denial of her application and requested a hearing.

27 4. On or about March 2, 2009, Scotty Jorgenson, an employee of the
28 Department of Justice, served by Certified and First Class Mail a copy of Statement of Issues No.

1 2009-174, Respondent's/Applicant's Notice of Designation of Counsel (2 blanks),
2 Respondent's/Applicant's Notice of Withdrawal of Request for Hearing (2 blanks), Request for
3 Discovery, Government Code sections 11507.5, 11507.6, and 11507.7, and Disciplinary
4 Guidelines, to Respondent's address on the application form, which was and is 505 East Lake
5 Street, Mt. Shasta, CA, 95067. A true and correct copy of the Statement of Issues is attached as
6 Exhibit A, and is incorporated herein by reference.

7 5. Service of the Statement of Issues was effective as a matter of law under
8 the provisions of Government Code section 11505, subdivision (c).

9 6. On or about July 22, 2008, Respondent appealed the denial of her
10 application and requested a hearing in this action. Respondent withdrew her request for a
11 hearing on or about April 13, 2009.

12 7. Business and Professions Code section 118 states, in pertinent part:

13 (a) The withdrawal of an application for a license after it has been filed
14 with a board in the department shall not, unless the board has consented in writing
15 to such withdrawal, deprive the board of its authority to institute or continue a
proceeding against the applicant for the denial of the license upon any ground
provided by law or to enter an order denying the license upon any such ground.

16 8. Government Code section 11506 states, in pertinent part:

17 (c) The respondent shall be entitled to a hearing on the merits if the
18 respondent files a notice of defense, and the notice shall be deemed a specific
19 denial of all parts of the accusation not expressly admitted. Failure to file a notice
of defense shall constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

20 9. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at
22 the hearing, the agency may take action based upon the respondent's express
admissions or upon other evidence and affidavits may be used as evidence without
23 any notice to respondent; and where the burden of proof is on the respondent to
establish that the respondent is entitled to the agency action sought, the agency
24 may act without taking evidence.

25 10. Pursuant to its authority under Government Code section 11520, the Board
26 finds Respondent is in default. The Board will take action without further hearing and, based on
27 evidence on file herein, finds that the allegations, in Statement of Issues No. 2009-174 are true.

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2. Service of Statement of Issues No. 2009-174 and related documents were proper and in accordance with the law.

4. The Board of Registered Nursing is authorized to deny Respondent's application for licensure based upon the following violations alleged in the Statement of Issues:

b. Violation of Code section 480, subdivision (a)(3), in that Respondent committed acts which if done by a licentiate of the profession would constitute discipline pursuant to Code sections 490 and 2761, subdivision (f).

IT IS SO ORDERED that the application of Respondent Victoria Jean Lovio is hereby **DENIED**.

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1 This Decision shall become effective on September 17, 2009.

2 It is so ORDERED September 3, 2009.

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5 FOR THE BOARD OF REGISTERED NURSING
6 DEPARTMENT OF CONSUMER AFFAIRS

7
8 **Attachment:**

9 Exhibit A: Statement of Issues No.2009-174

Exhibit A

Statement of Issues No. 2009-174

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART,
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER, State Bar No. 117576
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6 Attorneys for Complainant

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2009-174

13 **VICTORIA JEAN LOVIO**
505 East Lake Street
Mt. Shasta, California 96067

STATEMENT OF ISSUES

14 Respondent.

15
16 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

17 **PARTIES**

18 1. Complainant brings this Statement of Issues solely in her official capacity
19 as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

20 **Application Information**

21 2. On or about June 3, 2008, the Board of Registered Nursing, Department of
22 Consumer Affairs received an Application for Licensure by Exam from Victoria Jean Lovio
23 ("Respondent"). On or about May 28, 2008, Victoria Jean Lovio certified under penalty of
24 perjury to the truthfulness of all statements, answers, and representations in the application. The
25 Board denied the application on July 17, 2008.

26 **STATUTORY PROVISIONS**

27 3. Section 2736 of the Business and Professions Code ("Code") provides, in
28 pertinent part, that the Board of Registered Nursing ("Board") may deny a license when it finds

1 that the applicant has committed any acts constituting grounds for denial of licensure under Code
2 section 480.

3 4. Code section 480 states:

4 (a) A board may deny a license regulated by this code on the grounds that
5 the applicant has one of the following:

6 (1) Been convicted of a crime. A conviction within the meaning of this
7 section means a plea or verdict of guilty or a conviction following a plea of nolo
8 contendere. Any action which a board is permitted to take following the
9 establishment of a conviction may be taken when the time for appeal has elapsed,
or the judgment of conviction has been affirmed on appeal, or when an order
granting probation is made suspending the imposition of sentence, irrespective of
a subsequent order under the provisions of Section 1203.4 of the Penal Code.

10 (3) Done any act which if done by a licentiate of the business or
profession in question, would be grounds for suspension or revocation of license.

11 The board may deny a license pursuant to this subdivision only if the
12 crime or act is substantially related to the qualifications, functions or duties of the
business or profession for which application is made.

13 5. Section 2761 of the Code states:

14 The board may take disciplinary action against a certified or licensed nurse
15 or deny an application for a certificate or license for any of the following:

16 (f) Conviction of a felony or of any offense substantially related to the
17 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

18 6. Code section 490 states:

19 A board may suspend or revoke a license on the ground that the licensee
20 has been convicted of a crime, if the crime is substantially related to the
21 qualifications, functions, or duties of the business or profession for which the
22 license was issued. A conviction within the meaning of this section means a plea
23 or verdict of guilty or a conviction following a plea of nolo contendere. Any
24 action which a board is permitted to take following the establishment of a
conviction may be taken when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal, or when an order granting probation is
made suspending the imposition of sentence, irrespective of a subsequent order
under the provisions of Section 1203.4 of the Penal Code.

25 **FIRST CAUSE FOR DENIAL OF APPLICATION**

26 **(Criminal Conviction)**

27 7. Respondent's application is subject to denial under Code sections 480,
28 subdivision (a)(1) and 2761, subdivision (f), in that on July 7, 2008, in the Superior Court,

1 County of Butte, California, in the matter entitled *People vs. Victoria Jean Lovio*, (2008) Case
2 No. SCR64745, Respondent was convicted by the court on her plea of nolo contendere of a
3 violation of Vehicle Code section 23103 [reckless driving on a highway], a misdemeanor. The
4 original charges against Respondent were violation of Vehicle Code sections 23152(a) [driving
5 under the influence of alcohol] and 23152(b) [driving while having an 0.08% or higher blood
6 alcohol].

7 **SECOND CAUSE FOR DENIAL OF APPLICATION**

8 **(Acts Which if Done by a Licentiate Constitute Cause for Discipline)**

9 8. Respondent's application is subject to denial pursuant to Code section
10 480, subdivision (a)(3), in that Respondent committed acts which if done by a licentiate of the
11 profession would constitute discipline pursuant to Code sections 490 and 2761, subdivision (f).

12 **PRAYER**

13 **WHEREFORE**, Complainant requests that a hearing be held on the matters
14 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Denying the application of Victoria Jean Lovio for a registered nurse
16 license; and,

17 2. Taking such other and further action as deemed necessary and proper.

18 DATED: 2/23/09
19

20 

21 RUTH ANN TERRY, M.P.H., R.N.
22 Executive Officer
23 Board of Registered Nursing
24 Department of Consumer Affairs
25 State of California

26 Complainant
27
28